

AMENDED IN ASSEMBLY AUGUST 4, 2008

AMENDED IN SENATE APRIL 28, 2008

AMENDED IN SENATE APRIL 1, 2008

AMENDED IN SENATE MARCH 24, 2008

SENATE BILL

No. 1285

Introduced by Senator Corbett
(Coauthor: Assembly Member Laird)

February 19, 2008

~~An act to amend Sections 5096.501 and 5096.511 of, and to add Section 5096.517 to, the Public Resources Code, relating~~ *An act to amend Section 5096.501 of, and to add Sections 5096.517 and 5096.518 to, the Public Resources Code, relating to state lands.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1285, as amended, Corbett. Resource conservation lands: acquisition.

Existing law authorizes various agencies to acquire land for purposes related to conservation. Existing law requires an acquisition agency, as defined, prior to approving the acquisition of conservation land, as defined, where an agency proposes to spend more than \$25,000,000 of state funds, to contract for at least one independent appraisal of the fair market value of the land. Existing law defines "acquisition agency" as the Wildlife Conservation Board or the State Coastal Conservancy *and defines "conservation lands" as land or an interest therein to be acquired by an acquisition agency, or that is owned by the state and under the jurisdiction of the Wildlife Conservation Board, the State Coastal Conservancy, the Department of Fish and Game, or the Department of Parks and Recreation.*

This bill would instead define “acquisition agency” as *the Wildlife Conservation Board, the Department of Parks and Recreation, the Wildlife Conservation Board, or a state conservancy. The bill would revise the definition of “conservation lands” to delete the requirement that the land owned by the state be under the jurisdiction of the Wildlife Conservation Board, the State Coastal Conservancy, the Department of Fish and Game, or the Department of Parks and Recreation.*

~~Existing law requires the independent appraisal to be conducted by a qualified member of the Appraisal Institute and reviewed by a qualified independent appraiser retained by the acquisition agency for this purpose. The acquisition agency is required to make available for public review, among other things, the independent appraisal review, a summary of the basis for the recommendation of approval for the acquisition of the land, and any relevant environmental studies, documents, or other information.~~

~~This bill would instead require the independent appraisal to be conducted by a designated member of an appraisal organization that is a member of the Appraisal Foundation. The bill would require the Department of General Services, in consultation with the Department of Parks and Recreation, the Wildlife Conservation Board, and state conservancies, to convene a workgroup to develop and adopt standards, subject to the approval of the Resources Agency, with respect to the acquisition of conservation lands concerning the appraisal process, availability of appraisal information, and valuation for purposes of a charitable contribution. The bill would require that the workgroup not exceed 6 members and that it include representatives from the Department of Parks and Recreation, the Wildlife Conservation Board, the State Coastal Conservancy, and one or more other state conservancies with land acquisition responsibilities.~~

~~The bill would require the Department of General Services and the workgroup, by January 1, 2010, in developing standards for the appraisal of resource conservation acquisitions, including both direct and state-funded grant acquisitions, to consider specified subjects.~~

~~The bill would require the Franchise Tax Board to follow certain procedures in calculating the appropriate value of a charitable contribution claimed by a seller that is over \$5,000 on conservation land acquired using state funds.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 5096.501 of the Public Resources Code*
2 *is amended to read:*

3 5096.501. For purposes of this chapter, the following terms
4 have the following meanings:

5 (a) “Acquisition agency” means the Wildlife Conservation Board
6 ~~or the State Coastal Conservancy, the Department of Parks and~~
7 ~~Recreation, or a state conservancy.~~

8 (b) “Conservation lands” means any land or interest therein to
9 be acquired by an acquisition agency, or that is owned by the state
10 ~~and under the jurisdiction of the Wildlife Conservation Board, the~~
11 ~~State Coastal Conservancy, the Department of Fish and Game, or~~
12 ~~the Department of Parks and Recreation.~~

13 (c) “Major acquisition” means an acquisition where an agency
14 proposes to spend more than twenty-five million dollars
15 (\$25,000,000) of state funds.

16 *SEC. 2. Section 5096.517 is added to the Public Resources*
17 *Code, to read:*

18 5096.517. (a) *The Department of General Services shall*
19 *convene a workgroup to develop and adopt standards subject to*
20 *the approval of the Resources Agency with respect to the*
21 *acquisition of conservation lands. The workgroup shall not exceed*
22 *six members and shall include, but not be limited to, representatives*
23 *from all of the following:*

24 (1) *The Department of Parks and Recreation.*

25 (2) *The Wildlife Conservation Board.*

26 (3) *The State Coastal Conservancy and one or more other state*
27 *conservancies with land acquisition responsibilities.*

28 (b) *In developing standards for the appraisal of resource*
29 *conservation acquisitions, including both direct and state-funded*
30 *grant acquisitions, the Department of General Services and the*
31 *workgroup shall consider, by January 1, 2010, all of the following:*

32 (1) *Qualifications of the appraiser, including, but not limited*
33 *to, all of the following:*

34 (A) *The appraiser shall not engage in any appraisal activity in*
35 *connection with the purchase, sale, transfer, financing, or*
36 *development of real property if his or her compensation is*
37 *dependent on or affected by the value determined by the appraisal.*

1 (B) The appraiser shall be appropriately licensed by the Office
2 of Real Estate Appraisers pursuant to Part 3 (commencing with
3 Section 11300) of Division 4 of the Business and Professions Code.

4 (C) The appraisal shall be performed pursuant to the Uniform
5 Standards of Professional Appraisal Practice.

6 (D) Any additional qualifications regarding education,
7 certification, and years of experience deemed to be necessary by
8 the Department of General Services and the workgroup.

9 (E) This paragraph does not limit the ability of a public agency
10 to award a contract based on appraiser qualifications, including
11 designations, experience, and other factors deemed necessary to
12 perform an appraisal on a specific assignment, that exceed the
13 qualifications of this paragraph.

14 (2) Appraisal methodology to be used.

15 (3) Scope of the analysis and level of information provided in
16 the appraisal report, including, but not limited to, both of the
17 following:

18 (A) Verifiable data on the development potential of the land,
19 such as what would be required for a development project to
20 proceed.

21 (B) Reports documenting suspected environmental
22 contamination.

23 (4) Reference to comparable government and conservation
24 transactions when available.

25 (5) Age of the appraisal or appraisal update to be reviewed by
26 the department to keep an appraisal from being over one and
27 one-half years old.

28 (6) Appraisal of conservation easements, using the information
29 from the “Valuation of Conservation Easements Certificate
30 Program” created by members of the Appraisal Foundation and
31 the Land Trust Alliance as guidelines.

32 (7) Standards for the release of the appraisal review, including,
33 but not limited to, both of the following:

34 (A) Guidelines to state resource agencies for public disclosure
35 requirements.

36 (B) Improvement of the legislative notification process for better
37 oversight, including, when requested by the Legislature, provision
38 of a copy of the appraisal review for a major acquisition before
39 the close of escrow.

SEC. 3. Section 5096.518 is added to the Public Resources Code, to read:

5096.518. For a charitable contribution claimed by a seller that is over five thousand dollars (\$5,000) on conservation lands acquired using state funds, to calculate the appropriate value of a charitable contribution claimed by the seller, the Franchise Tax Board shall do all of the following:

(a) Use an appraisal conducted by an appraiser appropriately licensed by the Office of Real Estate Appraisers pursuant to Part 3 (commencing with Section 11300) of Division 4 of the Business and Professions Code.

(b) Meet applicable standards developed by the working group created pursuant to Section 5096.517.

(c) Meet federal guidelines.

SECTION 1. ~~Section 5096.501 of the Public Resources Code is amended to read:~~

~~5096.501. For purposes of this chapter, the following terms have the following meanings:~~

~~(a) "Acquisition agency" means the Department of Parks and Recreation, the Wildlife Conservation Board, or a state conservancy.~~

~~(b) "Conservation lands" means any land or interest therein to be acquired by an acquisition agency, or that is owned by the state and under the jurisdiction of the Wildlife Conservation Board, the State Coastal Conservancy, the Department of Fish and Game, or the Department of Parks and Recreation.~~

~~(c) "Major acquisition" means an acquisition where an agency proposes to spend more than twenty-five million dollars (\$25,000,000) of state funds.~~

SEC. 2. ~~Section 5096.511 of the Public Resources Code is amended to read:~~

~~5096.511. Prior to any action by an acquisition agency to approve a major acquisition of conservation lands, the acquisition agency shall contract for at least one independent appraisal of the fair market value of the land. The appraisal shall be conducted by a designated member of an appraisal organization that is a member of the Appraisal Foundation who is licensed pursuant to Part 3 (commencing with Section 11300) of Division 4 of the Business and Professions Code. The appraisal shall be prepared pursuant to the Uniform Standards of Professional Appraisal Practice.~~

1 ~~SEC. 3. Section 5096.517 is added to the Public Resources~~
2 ~~Code, to read:~~

3 ~~5096.517. The Department of General Services, in consultation~~
4 ~~with the Department of Parks and Recreation, the Wildlife~~
5 ~~Conservation Board, and state conservancies, shall develop and~~
6 ~~adopt standards subject to the approval of the Resources Agency,~~
7 ~~for all of the following with respect to the acquisition of~~
8 ~~conservation lands:~~

9 ~~(a) Standards for the appraisal of resource conservation~~
10 ~~acquisitions, including both direct and state-funded grant~~
11 ~~acquisitions. The standards shall include guidelines for all of the~~
12 ~~following:~~

13 ~~(1) Qualifications of the appraiser, including, but not limited~~
14 ~~to, both of the following:~~

15 ~~(A) The appraiser shall not engage in any appraisal activity in~~
16 ~~connection with the purchase, sale, transfer, financing, or~~
17 ~~development of real property if his or her compensation is~~
18 ~~dependent on or affected by the value determined by the appraisal.~~

19 ~~(B) The appraiser shall be a designated member of an appraisal~~
20 ~~organization that is a member of the Appraisal Foundation and~~
21 ~~both of the following requirements shall be met:~~

22 ~~(i) The appraisal shall be performed pursuant to the Uniform~~
23 ~~Standards of Professional Appraisal Practice.~~

24 ~~(ii) For major acquisitions, the appraiser shall have three years~~
25 ~~of experience as a licensed appraiser, and have achieved a certified~~
26 ~~level by a date to be specified in the appraisal standards developed~~
27 ~~by the Department of General Services and the Resources Agency.~~

28 ~~(2) Appraisal methodology to be used.~~

29 ~~(3) Scope of the analysis and level of information provided in~~
30 ~~the appraisal report, including, but not limited to, both of the~~
31 ~~following:~~

32 ~~(A) Verifiable data on the development potential of the land,~~
33 ~~such as what would be required for a development project to~~
34 ~~proceed.~~

35 ~~(B) Reports documenting suspected environmental~~
36 ~~contamination.~~

37 ~~(4) Reference to comparable government and conservation~~
38 ~~transactions when available.~~

1 ~~(5) Age of the appraisal or appraisal update to be reviewed by~~
2 ~~the department to keep an appraisal from being over one and~~
3 ~~one-half years old.~~

4 ~~(6) Appraisal of conservation easements, using the information~~
5 ~~from the “Valuation of Conservation Easements Certificate~~
6 ~~Program” created by members of the Appraisal Foundation and~~
7 ~~the Land Trust Alliance as guidelines.~~

8 ~~(b) Standards for the release of the appraisal review, including,~~
9 ~~but not limited to, both of the following:~~

10 ~~(A) Guidelines to state resource agencies for public disclosure~~
11 ~~requirements.~~

12 ~~(B) Improvement of the legislative notification process for better~~
13 ~~oversight, including when requested by the Legislature, provision~~
14 ~~of a copy of the appraisal review for a major acquisition before~~
15 ~~the close of escrow.~~

16 ~~(c) For conservation lands acquired by the state, the Franchise~~
17 ~~Tax Board shall use the state-approved appraisal value or the value~~
18 ~~of an appraisal conducted by a qualified member of an appraisal~~
19 ~~organization that is a member of the Appraisal Foundation, who~~
20 ~~is licensed pursuant to Part 3 (commencing with Section 11300)~~
21 ~~of Division 4 of the Business and Professions Code, which is within~~
22 ~~10 percent of the state-approved appraisal, to calculate the~~
23 ~~appropriate value of a charitable contribution claimed by the seller.~~